

C2 Sub D6

31. (Amended) A defective recombinant adenovirus comprising[;  
-]the ITR sequences,  
[-]an encapsulation sequence, and  
[-]a heterologous DNA sequence,  
wherein the E3 and E4 genes have been rendered non-functional by deletion.

34. (Amended) A defective recombinant adenovirus consisting essentially of[;

-]the ITR sequences,  
[-]an encapsulation sequence,  
[-]a heterologous DNA sequence, and  
[-]all or part of the E2 gene.

35. (Amended) A defective recombinant adenovirus consisting essentially of[;

-]the ITR sequences,  
[-]an encapsulation sequence,  
[-]a heterologous DNA sequence, and  
[-]all or part of the E4 gene.

## **REMARKS**

### **Status of the Claims**

Claims 1-3, 6, and 9-35 are under consideration. Claims 1, 31, 34, and 35 have been amended slightly. The amendments are directed to the form of the claims, and do not affect the scope of the claimed subject matter. All of the claims under consideration, as amended, are presented as an Appendix.

### **Summary of the Office Action**

In the Office Action, the Examiner acknowledged that "(t)he specification has clearly succeeded in providing a utility for the claimed invention in terms of its use as a gene transfer vector." Office Action at page 2.

The Examiner further acknowledged that "(t)he specification clearly discloses how to make the disclosed vectors that are to be used in gene transfer." Office Action at page 3.

The Examiner rejected claims 1-3, 6, and 9-35 under 35 U.S.C. § 112, first paragraph as not enabled, stating that the specification provides insufficient guidance on how to use the claimed vectors.